

CAUSE NO. **C-8654-14-B**

ULESES HERNANDEZ,	Plaintiff	§	IN THE DISTRICT COURT
		§	
VS.		§	_____ JUDICIAL DISTRICT
		§	
JACKIE BROOKS; BROOKS		§	
TRANSPORTATION, LLC; and		§	
WILLIE J. MILSAPS,		§	
	Defendants	§	HIDALGO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION WITH REQUESTS FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, ULESES HERNANDEZ (xxx-xx-x964), (sometimes hereinafter referred to as Plaintiff), complaining of JACKIE BROOKS (sometimes hereinafter referred to as Defendant BROOKS); BROOKS TRANSPORTATION, LLC (sometimes hereinafter referred to as Defendant BT, LLC); and WILLIE J. MILSAPS (sometimes hereinafter referred to Defendant MILSAPS), and for cause of action would show unto this Honorable Court as follows:

I.
DISCOVERY

Pursuant to Texas Rule of Civil Procedure 190.1, this case is to be governed by the provisions of Texas Rule of Civil Procedure 190.4 as discovery is intended to be conducted under Level 3 of Rule 190.1 of the Texas Rules of Civil Procedure.

II.
PARTIES

Plaintiff **ULESES HERNANDEZ** brings this suit individually.

Defendant, **JACKIE BROOKS**, is an individual who can be served at her place of residence at 6619 Elmore Rd., Littlerock, Arkansas 72229.

Defendant, **BROOKS TRANSPORTATION, LLC**, is a limited liability corporation doing business in the State of Texas, but they do not have a registered agent in the State of Texas; therefore, they can be served by serving the **Texas Secretary of State, at the following**

DATE 4/22/15
A true copy, certify
LAURA HINOJOSA
District Clerk, Hidalgo County Texas
By [Signature] Deputy

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address: Citations Unit, Texas Secretary of State, James E. Rudder Building, 1019 Brazos, Room 220, Austin, Texas 78701. The Secretary of State can serve Defendant BROOKS TRANSPORTATION, LLC by serving JACKIE BROOKS at 6619 Elmore Rd., Littlerock, Arkansas 72229.

Defendant, **WILLIE J. MILSAPS**, is an individual who can be served at his place of residence, 132 Half Circle Dr., Heidleburg, MS 39439.

The parties are all Texas Citizens.

III.
VENUE

Venue is proper in Hidalgo County pursuant to Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code in that the accident and/or occurrence made the subject of this case and the acts or omissions giving rise to the cause of action all occurred in Hidalgo County, Texas.

IV.
FACTS AND CAUSES OF ACTION

On or about December 9, 2013, Plaintiff was traveling east bound on the 1300 Block of West Interstate 2 Frontage, when the tractor trailer driven by Defendant BROOKS, who was in the course and scope of his employment for Defendant BT, LLC. The tractor trailer was owned by Defendant MILSAPS. Defendant BROOKS failed to yield the right of way, causing Plaintiff's vehicle to strike the tractor trailer. All of Plaintiff's damages were proximately caused by this accident, and are in excess of this Court's minimum jurisdictional requirements.

V.
PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST DEFENDANTS BROOKS AND BT, LLC

Plaintiff would show that Defendant BROOKS and/or BT, LLC were guilty of the following acts and/or omissions, each of which constituted negligence and/or negligence per se and each of which was proximate cause of the occurrence in question and Plaintiff's resulting injuries.

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The negligent and careless disregard of duty of Defendant BROOKS and/or BT, LLC, consisted of, but is not limited to, the following acts and omissions:

- (a) In failing to yield the right of way when required to do so;
- (b) In failing to maintain a proper lookout for traffic;
- (c) In attempting to make a turn when unsafe; and,
- (d) In hiring an unsafe driver.

Defendants BROOKS and/or BT, LLC had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

Plaintiff's injuries and damages were proximately caused by Defendant BROOKS' and BT, LLC'S negligent, careless, and reckless disregard of said duty.

VI.

PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST DEFENDANT MILSAPS

At the time and place in question, Defendant MILSAPS was guilty of the following acts and/or omissions:

- (a) In negligently entrusting its vehicle to Defendant BROOKS, and,
- (b) In allowing Defendant BROOKS to operate a tractor trailer when it was apparent that he was an incompetent and/or reckless driver.

Each and all of the above and foregoing acts of omission and commission constitute negligence, and negligent entrustment and gross negligence and were each and all a proximate cause of the incident made the basis of this lawsuit and Plaintiff's injuries and damages.

Defendant MILSAPS is liable to Plaintiff for his damages under the Doctrine of Respondent Superior.

VII. **DAMAGES**

As a direct and proximate result of the accident made the basis of this lawsuit, Plaintiff suffered severe injuries. Additionally he has incurred the following damages.

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(a) Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;

(b) Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;

(c) Physical pain and suffering in the past;

(d) Physical pain and suffering in the future;

(e) Mental anguish in the past;

(f) Mental anguish in the future;

(g) Lost wages in the past and wage earning capacity;

(h) Impairment;

(i) Disfigurement;

(j) Property damage.

Plaintiff seeks damages in an amount in excess of this courts minimum jurisdictional limits.

Pursuant to Texas Rules of Civil Procedure 47(c)(4) Plaintiff seeks monetary relief of more than \$100,000.00 but not more than \$500,000.00.

VIII.
REQUEST FOR DISCLOSURE

Under Texas Rules of Civil Procedure 194, Plaintiff requests that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2(a)-(l).

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IX.
DEMAND FOR JURY

Plaintiff demands a jury trial and has tendered the appropriate fee.

X.
PRAAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendants be cited to appear and answer herein, and that upon final hearing of the cause, judgment be entered for the Plaintiff against Defendants, for damages in an amount in excess of the minimum jurisdictional limits of the Court, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,
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By: **/s/ William J. Tinning**

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